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*Attorneys for Plaintiff Pepperdine University*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

PEPPERDINE UNIVERSITY,  
  
Plaintiff,  
  
v.  
  
NETFLIX, INC. and WARNER  
BROS. ENTERTAINMENT INC.  
  
Defendants.

Case No. 25-1429

**DECLARATION OF SEAN BURNETT  
IN SUPPORT OF PLAINTIFF'S  
MOTION FOR TEMPORARY  
RESTRAINING ORDER**

**DECLARATION OF SEAN BURNETT**

I, Sean Burnett, declare and state as follows:

1. I am the Senior Vice President for Integrated Marketing Communications and Chief Marketing Officer at Pepperdine University (“Pepperdine”), the Plaintiff in this action. I submit this Declaration in support of the Plaintiff’s Memorandum of Points & Authorities in Support of Motion for Temporary Restraining Order, dated February 20, 2025. I have personal knowledge of the facts set forth herein, and, if called to testify, could and would testify hereto.

2. I have been the Senior Vice President for Integrated Marketing Communications and Chief Marketing Officer at Pepperdine for nearly 3 years. In that capacity, I am responsible for, among other things, Pepperdine’s strategic communications and marketing and Pepperdine’s brand and brand positioning. Additionally, I work with Pepperdine’s Steering Team, among others, to advance Pepperdine’s mission.

3. Founded in 1937, Pepperdine University stands as a premier, non-profit, Christian institution renowned for its exceptional undergraduate and graduate programs. Pepperdine’s athletic teams—called the “Waves”—are similarly excellent. Since its founding, Pepperdine’s athletic teams have been known as the “Waves,” and they have achieved remarkable success in various NCAA sports. Based on information provided to me by others at the University, I understand that the Waves have won the Division I-AAA<sup>1</sup> Athletic Directors Association All-Sports Trophy five times and have ten NCAA Division I team championships across five different sports. And that the men’s basketball team, which began its journey in the 1938-1939 season, has grown into a formidable program. Competing at the NCAA Division I level, I understand that the team has produced at least 33 NBA draftees and proudly counts one former player among the inductees of the Naismith Memorial Basketball Hall of Fame.

4. For over eight decades, Pepperdine University has been a cornerstone of higher education in Los Angeles, dedicated to upholding the highest standards of academic excellence and Christian values. The university’s mission is to empower students for lives filled with purpose,

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<sup>1</sup> Division I-AAA consists of the approximately 100 NCAA Division I schools that do not sponsor football.

1 service, and leadership. This commitment attracts students, faculty, donors, and sponsors who  
2 value Pepperdine's blend of rigorous academics and strong ethical principles. Nestled on an 830-  
3 acre campus in Malibu, Los Angeles County, Pepperdine is just 29 miles from Downtown Los  
4 Angeles and serves over 9,000 students across its five colleges and schools.

5 5. Pepperdine maintains a strict alcohol- and drug-free policy. With few exceptions,  
6 the Student Code of Conduct prohibits students from being in the presence of alcohol, controlled  
7 substances, or drug-related paraphernalia on any of Pepperdine's campuses.

8 6. Pepperdine also has distinctive school colors, which it adopted in 1937, that are  
9 inextricably linked to Pepperdine's spirit, tradition, and brand. Its primary school colors are blue  
10 and orange, with several secondary colors, including white, sky blue, and ocean blue. Pepperdine's  
11 official colors have been a key component of the university's brand identity since its founding.  
12 Pepperdine's official colors are prominently featured in Pepperdine's marketing, advertising,  
13 merchandise, and official communications. Through consistent and widespread use since 1937 at  
14 sporting events, graduation ceremonies, and community gatherings, these colors have become  
15 synonymous with Pepperdine's brand. Attached hereto as **Exhibit A** is a true and correct copy of  
16 a printout of Pepperdine's Website, taken on February 19, 2025, also available at URL:  
17 <https://community.pepperdine.edu/imc/resources/style-guide/official-colors/>.

18 7. Pepperdine's official colors and team name feature prominently in Pepperdine's  
19 sportswear, uniforms, jerseys, and merchandise. Pepperdine's colors often appear with other  
20 symbols or indicia associated with the university—like the "Waves" team name or the number "37"  
21 (a homage to the year of Pepperdine's founding).

22 8. I understand that the number 37, reflecting the year of Pepperdine's founding, is  
23 the number frequently worn by Pepperdine's mascot (Willy the Wave), alumni, dance team, and  
24 sporting event attendees. Attached hereto as **Exhibit B** is a true and correct copy of images of  
25 Pepperdine's mascot, students, alumni, and others promoting the number "37" in connection with  
26 the Pepperdine Waves.

27 9. Pepperdine has continuously protected its brand and its marks. I am aware that the  
28 University sent numerous cease-and-desist letters to entities and individuals infringing on its marks.

1 I am further aware that some of those letters related to the WAVES marks. I also understand that  
2 the University has licensed other parties for limited uses of Pepperdine's marks, often in other fields  
3 of use.

4 10. Pepperdine has also invested substantial amounts of funds into its marketing,  
5 advertising, and branding, especially in use of its marks to promote its brand. Pepperdine also has  
6 significant sales of merchandise bearing its trademarks, its color palette, and often the number "37,"  
7 which it sells online directly and through third parties, and directly through at least two brick-and-  
8 mortar stores in different areas of Los Angeles. Pepperdine also uses social media and other online  
9 media, websites, print advertising, press releases, and direct sales efforts.

10 11. I believe that that through Pepperdine's longstanding and prominent use of its  
11 marks nationally and in the Southern California region, and through its extensive advertising and  
12 sales, substantial goodwill has been developed in the WAVES marks. I believe that Pepperdine's  
13 marks are widely recognized nationally (or at least regionally) as being associated with Pepperdine  
14 as a university and its core mission and values.

15 12. I understand that Pepperdine prominently displayed several of its WAVES marks  
16 in a conference room at the Staples Center from 2018-2022 (now Crypto.com Arena).

17 13. Based on information provided to me by others at the University, I understand that,  
18 based on self-reported data from alumni, several Pepperdine alumni have gone on to work at Netflix  
19 (at least 46 alumni), Warner Brothers (at least 79 alumni), and the Lakers (at least 6 alumni)—not  
20 to mention alumni athletes that played for the Lakers.

21 14. I have reviewed the *Running Point* trailer released by Defendants in connection  
22 with their promotion of the series. I first learned about the *Running Point* trailer, and its use of  
23 Pepperdine's marks, on January 30, 2025, the day it was released. Based on my viewing of the  
24 trailer, the *Running Point* series includes themes of excessive alcohol and substance use, sexual  
25 innuendo and imagery, foul language, as well as other offensive themes that run counter to the  
26 values that Pepperdine stands for and promotes. For example, in the trailer, Kate Hudson's  
27 character is heard stating that she "might have a Xani on the plane." There is also sexually  
28 suggestive dialogue, such as: "I seen your titties on the internet so I can't really take you serious"

1 and “everyone is horny for everyone they work with.” The trailer even includes a topless photo of  
2 Kate Hudson with Plaintiff’s WAVES mark shown prominently. Taken separately and together,  
3 the messages and imagery depicted in *Running Point* stand inapposite of Pepperdine’s values, and  
4 Pepperdine does not wish to be tied to the messages and imagery of *Running Point*.

5 15. If the Defendants are permitted to release the *Running Point* series, it will cause  
6 further irreparable harm to Pepperdine, its overall brand, and its trademarks. I believe it will  
7 associate Pepperdine’s trademarks with a series whose messaging and themes are antithetical to  
8 those espoused by Pepperdine University. I believe that the release may also hinder Pepperdine’s  
9 ability to recruit students, athletes, and faculty, and its ability to secure donors and sponsors and  
10 pursue its overall mission.

11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed this 20 day of February, 2025 in Los Angeles, California.

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16 SEAN BURNETT  
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